Arent Fox

July 2, 2012

VIA ECFS

Marlene H. Dortch Secretary Federal Communications Commission 445 12th Street, S.W. Washington, D.C. 20554 Stephanie A. Joyce

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Re: Response to letter from Martha Wright, et al., CC Docket No. 96-128

Dear Ms. Dortch:

Securus Technologies, Inc. ("Securus") responds to the letter from Martha Wright, *et al.* filed in this docket on June 28, 2012 ("Wright Letter").

The Wright Letter attaches the transcript from a public hearing before the New Mexico Public Regulation Commission ("NMPRC") held May 2, 2012, in the proceeding *Petition to Commence Rulemaking Proceeding for Institutional Operator Service Providers*, Case 10-00198-UT ("Case 198"). Nothing in that transcript, or indeed in Case 198, is inconsistent with the positions that Securus has taken before this Commission.

During that hearing, the undersigned counsel for Securus urged the NMPRC not to adopt the intrastate rate caps to which other carriers had agreed. Case 198 Transcript at 81:15-23. Securus instead asked that the NMPRC adopt the four-tiered rate system recommended by Hearing Examiner Lee Huffman that is based on the monthly volume of minutes at a particular correctional facility. Case 198 Transcript at 83:1-9.

This testimony is fully consistent with Securus's position that the Commission should not adopt the single-rate, "one-size-fits-all" approach that Wright and other parties support. Those parties have never supported a tiered approach, contrary to the suggestion of the Wright Letter (at 3).

The transcript contains another discussion that is crucial to Case 198 and that the Wright Letter fails to mention: rate variances. Even under the four-tiered rating system, Securus and the other

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CC Docket No. 96-128, Letter from Frank W. Krogh to Marlene H. Dortch, Attachment (Jan. 12, 2010) (advocating rate of \$0.20 per minute for debit calls and \$0.25 per minute for collect calls, no per-call charge permitted); Letter from Lee G. Pietro to Marlene H. Dortch, Ex. B (July 27, 2011) (advocating same); Letter from Lee G. Pietro to Marlene H. Dortch, Ex. A (Dec. 21, 2011) (advocating same); Letter from Lee G. Pietro to Marlene H. Dortch at 2 (Feb. 15, 2012) (advocating same).

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service providers request the ability to petition the NMPRC for a rate variance in the event that a particular site cannot be served under the rate caps. Case 198 Transcript at 77:22-78:1. This testimony further underscores the fact that a single-rate approach is not workable.

In addition, the Wright Letter draws attention to a statement during the Case 198 hearing that Securus serves very few, and possibly zero, facilities that do not permit some type of prepaid inmate calling. Wright Letter at 2 (citing Case 198 Transcript at 52). Wright's counsel then suggests that Securus misled this Commission in previous letters with regard to the proportion of inmate calls that are collect. *Id.* That suggestion is baseless, for two reasons. First, Case 198 involves only New Mexico facilities, and accordingly counsel's statement regarded only New Mexico where Securus holds 24 contracts. When presenting to this Commission, by contrast, Securus refers to its entire service area which comprises approximately 1,400 contracts spanning 46 states. Secondly, the Securus letters to which Wright's counsel refers were filed four years ago, in May and December 2008. The state of the industry has changed, and correctional authorities are permitting prepaid calling options with more regularity. To compare those 2008 statements with the 2012 Case 198 Transcript is simply flawed logic.

The Wright Letter also notes that Securus has amended its contract with the Florida Department of Corrections ("FLDOC") four times since that contract was executed in August 2007. Wright Letter at 3. Contrary to counsel's suggestion, of the four amendments, only the most recent amendment in April 2012 affected inmate rates; the Wright Letter appends only that amendment. Moreover, the arrangement with FLDOC in no way demonstrates that contracts are amended frequently, or that a change of law requiring the renegotiation of 1,400 contracts is not "unduly burdensome" or is "completely reasonable". *Id*.

Securus met with several public interest groups on April 23, 2012, to discuss the issues involved in inmate calling rates, and offered to meet with them again in June 2012. Those parties unfortunately were not available on the date Securus offered, but Securus is confident that another meeting with all interested stakeholders can be arranged in the near future. Securus will keep the Commission apprised of the discussions.

Please contact me at 202.857.6081 with any questions. Thank you for your consideration.

Arent Fox

Sincerely,

s/Stephanie A. Joyce

Counsel to Securus Technologies, Inc.

Cc: Chairman Julius Genachowski

Commissioner Robert McDowell

Commissioner Mignon Clyburn

Commissioner Ajit Pai

Commissioner Jessica Rosenworcel

Michael Steffen, Legal Advisor to Chairman Genachowski

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All via electronic mail